

PLANNING AND DEVELOPMENT COMMITTEE

TO: *MAYOR AND COUNCILLORS*

SUBJECT: TENANT ASSISTANCE POLICY REVIEW

RECOMMENDATION:

THAT the addition of the proposed clarifying language in the Tenant Assistance Policy, as outlined in Attachment 2 to the report titled “Tenant Assistance Policy Review” dated September 25, 2024, of the Open meeting of the Planning and Development Committee, be approved.

REPORT

The Planning and Development Committee, at its meeting held on September 25, 2024, received and adopted the attached report providing an update on the implementation of the Tenant Assistance Policy and proposing clarifying language for inclusion in the policy.

On behalf of the Planning and
Development Committee,

Mayor M. Hurley
Chair

Councillor P. Calendino
Vice Chair

TO: PLANNING AND DEVELOPMENT COMMITTEE (PDC)
FROM: GENERAL MANAGER PLANNING AND DEVELOPMENT
SUBJECT: **TENANT ASSISTANCE POLICY REVIEW**
PURPOSE: To provide Council with an update on the implementation of the Tenant Assistance Policy and propose clarifying language for inclusion in the policy.

RECOMMENDATION

THAT the addition of the proposed clarifying language in the Tenant Assistance Policy, as outlined in Attachment 2 to the report titled “Tenant Assistance Policy Review” dated September 25, 2024, be approved.

EXECUTIVE SUMMARY

This report outlines proposed updates to the Tenant Assistance Policy (TAP) as part of ongoing two-year reviews of the policy. The proposed updates include clarifying requirements for tenants with pets, the timing and calculation of the TAP bonding, TAP checklist, and details regarding tenant eligibility. The goal of these updates is to increase clarity and transparency of the TAP in advance of considering the development of a tenant protection bylaw at a later date.

1.0 POLICY SECTION

The Tenant Assistance Policy aligns with multiple City policies including:

- Mayor's Task Force on Community Housing Final Report (2019);
- Rental Use Zoning Policy (2019); and
- HOME: Burnaby's Housing and Homelessness Strategy (2021).

2.0 BACKGROUND

The TAP sets out required supports for tenants facing displacement from purpose-built rental buildings with five or more units due to redevelopment associated with rezoning. The required supports seek to reduce the financial impact of redevelopment on tenants and provide an opportunity for them to remain in Burnaby long term.

Burnaby's first TAP was adopted by Council on May 4, 2015, and revised March 5, 2018. Following the conclusion of the Mayor's Task Force on Community Housing in 2019, Council directed staff to pursue amendments to the TAP to strengthen provisions for renters. Council approved the revised TAP in principle on December 2, 2019, and adopted the current TAP on March 9, 2020. The Council report from March 9, 2020,

stipulated that the policy would be reviewed every two years. The first two-year review was approved by Council October 24, 2022. This report marks the second two-year review.

2.1 Tenant Assistance Policy Overview

Under the current TAP, eligible tenants may receive financial compensation, moving compensation and the right of first refusal to a rental replacement unit. In respect of interim housing, eligible tenant households may choose one of three financial compensation options:

- Option 1: Applicant Secured Interim Housing – where the Tenant Relocation Coordinator (TRC) on behalf of the applicant/landlord provides at least three options for interim housing and where a rent top up is provided to help bridge the gap between the rent the tenants were paying at the rezoning site and the rent at the interim unit.
- Option 2: Tenant Secured Interim Housing – where the tenant finds their own interim housing and is provided a rent top up to a maximum amount (the greater of either 15% of the tenant’s monthly rent, or the difference between the tenant’s monthly rent and 30% above CMHC Median).
- Option 3: Lump Sum - instead of rent top ups, households can opt to receive a one-time, lump sum payment (equivalent to 3 years (36 months) of rent top ups at the maximum amount).

The applicant must provide the financial compensation in accordance with the timelines set out in TAP.

Eligible households are also provided support to help with moving from the rezoning site to an interim unit, and (if they choose to accept a replacement unit) from the interim housing unit to the replacement unit. Tenants can choose between:

- Option 1: Applicant Arranged Moving Compensation - where a moving company is arranged by the TRC and paid for by the rezoning applicant (available for tenants moving within Metro Vancouver), or
- Option 2: Flat Rate Payment - where the tenant can arrange the move themselves and receive a flat rate payment based on the number of bedrooms in their rental unit (\$900 for a studio or one bedroom unit, \$1,200 for a two bedroom unit, and \$1,400 for a three bedroom unit).

All eligible households are offered the Right of First Refusal for a replacement unit as provided for through the Rental Use Zoning Policy (RUZP). Rent is set as the rent tenants were paying at move out from the rezoning site, plus *Residential Tenancy Act (RTA)* allowable rent increases between move out from the rezoning site and completion of the replacement units. TAP requires applicants provide additional support to applicants who make specific requests, and when providing replacement units provide

replacement units that accommodate any accessibility requirements outlined in the tenant's Tenant Assistance Form.

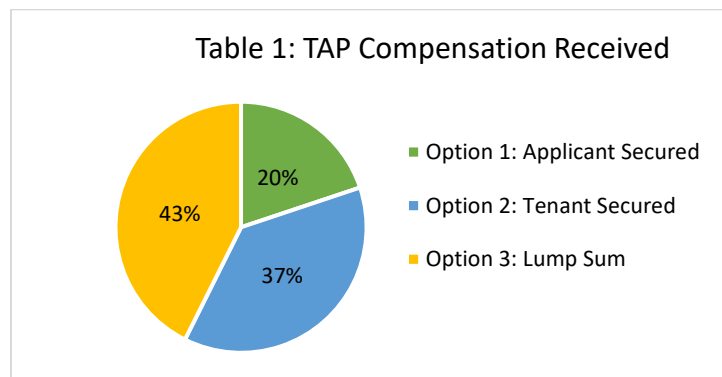
2.2 Implementation Summary

The following section summarizes TAP implementation progress for rezoning applications subject to the 2020 TAP and the provision of replacement units under RUZP. Data is based on active rezoning applications as of July 1, 2024.

- TAP and RUZP apply to 34 rezoning applications.
 - 2,017 units are to be replaced in accordance with RUZP.

The Renters Office tracks three key milestones in the completion of TAP obligations: initial requirements, tenant relocation, and occupancy of replacement units. The 34 active TAP projects have achieved the following milestones:

- 32 projects have completed initial requirements.
 - 30 projects have distributed Tenant Assistance Forms (TAFs)¹ and approximately 80% of the eligible households have submitted a TAF.
- 13 projects have issued a Four Month Notice to End Tenancy, completed tenant relocation and have paid or are paying financial compensation.
 - 57% of households in these projects that are eligible for financial compensation are receiving monthly rent top ups while 43% have opted for a lump sum payment.



- 1 project has been completed and has offered tenants a replacement unit.
 - 63% of eligible tenants from 6525 Telford accepted a replacement unit.

¹ TAFs are used to determine households preferred financial and moving compensation options, and (if applicable) accessibility needs for the replacement unit.

3.0 GENERAL INFORMATION

Staff have observed several implementation concerns since the last policy review and continue to receive feedback regarding the complexity of TAP implementation. In response, staff are proposing to add clarifying language to improve understanding of the policy by tenants, rezoning applicants and TRCs. The proposed language is based on current policy interpretation and practice and does not alter the intent of the policy. This report details four identified issues. Attachment 1 outlines all identified issues and proposed clarifying language. Attachment 2 provides a copy of TAP with the clarifying language edits included.

3.1 Supports for Tenants with Pets Pets are often considered to be part of someone’s family and when pets have been permitted in a rental unit at the rezoning site, it may be emotionally difficult for a tenant to surrender their pet in order to access an interim unit. Implementation of TAP to date has been supportive of tenants with pets and requirements regarding pets in replacement units are set out in the TAP Guide and RUZP housing agreements.

Recommendation

To provide greater clarity, it is proposed that wording be added to the policy about requirements for TRCs to find pet-friendly interim housing options for Option 1: Applicant-secured interim housing and that tenants be offered a pet friendly replacement unit based on the number and size of the pets that the tenant was allowed to have in the unit at the rezoning site.

3.2 Switching From Top up to Lump Sum Compensation

In 2022, the policy was revised so any tenant eligible under the TAP could request a lump sum payment. To switch from top ups to a lump sum payment, the compensation paid to date is subtracted from the total lump sum amount.

Some developers have found interim units for their tenants within other rental buildings that they own and offer these units to the tenant at the tenant’s current rent. In these cases, the intent of the policy is being met as the tenants are not experiencing additional financial burden related to the rent for the interim unit, even though they are not receiving a formal rent top up cheque due to the reduced rents offered. The TAP Guide outlines that if a tenant’s rent is less than their rent at the rezoning site and they elect to switch to a lump sum payment, then the number of months the tenant has received the benefit of Option 1: Applicant Secured Interim Housing or Option 2: Tenant Secured Interim Housing should be pro-rated by subtracting the number of months from the 36 months used in the lump sum payment calculation.

Recommendation

To provide clarification, it is recommended that additional text explain that if a tenant has secured interim housing for which the rent is the same or less than that at the rezoning site and they elect to switch to a lump sum payment, then the number of months the tenant has lived in that interim housing unit will be subtracted from the lump sum payment calculation.

3.3 Timing of TAP Bonding

Bonding is a critical component of TAP that enables the City to continue financial support to tenants in the case that a developer defaults on their obligations under the policy. Generally, tenant compensation starts when a Four Month Notice to End Tenancy has been issued by the property owner, which can be issued when the property owner has received their demolition permit. The TAP bond is currently required to be submitted prior to Final Adoption. As a demolition permit can be issued prior to Final Adoption, there is currently the potential for tenants to be evicted before the TAP bond has been secured.

Recommendation

To include wording within the policy to clarify that bonding is to be submitted prior to Final Adoption of the rezoning bylaw, or issuance of a Demolition Permit, whichever comes first.

3.4 Communication with Ineligible Tenants

If a tenant moves into a rezoning site after the eligibility date (the date a rezoning application is filed with the City), they are ineligible for compensation under TAP. Staff have been informed by several tenants at rezoning sites that they moved into a rental unit without knowing there was an active rezoning application or that they would be ineligible for benefits for the policy. This causes significant stress as tenants unknowingly end up in a rental unit that may be demolished but are not provided supports through TAP. Currently, only the TAP Guide outlines the City's expectations regarding communicating with ineligible tenants.

Recommendation

To bring more prominence to the City's expectations for property owners to communicate with prospective tenants after the eligibility date, staff propose adding the details regarding communications with ineligible tenants from the TAP Guide to the policy requiring that applicants inform prospective tenants that (1) the site is subject to an active rezoning which may result in their displacement and (2) that the prospective tenant will be ineligible for any compensation or support under the TAP policy.

3.5 Removal of Checklist from TAP and Include it as a Schedule to TAP

Policy implementation is guided by the Tenant Assistance Policy Checklist which outlines all policy requirements. This document is shared with rezoning applicants and is key to ensuring in stream applications meet the policy requirements. The issue is that the TAP includes some, but not all, requirements in a condensed version of the checklist (section 7.1). Having a condensed version of the checklist embedded in the TAP itself creates confusion regarding what is required of rezoning applicants.

Recommendation

To remove the condensed checklist from the TAP text and instead attach the the Tenant Assistance Policy Checklist in its entirety as Schedule A to the policy.

3.6 Additional Clarifications

In addition to the issues presented above, staff have identified several other items for consideration in Attachment 1, including:

- Clarification that tenants living in illegal units created by the property owner may be eligible, as outlined in the TAP Guide.
- Clarification that tenants evicted for cause are ineligible as outlined in RUZP.
- Clarification that the interim period applies to both top ups and lump sums.
- Clarification of how the TAP bond is calculated as outlined in the TAP Guide.
- Clarification that moving compensation should be provided to all tenants that return to the replacement building, including inclusionary units.

Staff also note that the Council report outlining 2019 changes to the policy retained the right of first refusal to purchase a unit within the new development, which was a provision of the 2018 TAP, but this provision was not included in the 2020 TAP. Now that RUZP is in place and all tenants will be offered the opportunity to return to the building, the right of first refusal to purchase a unit is no longer needed, as individuals can purchase a strata unit anywhere, including off site, if they choose. Therefore, the TAP policy does not include a first right of refusal to purchase a unit within the new development.

3.7 Next Steps: Tenant Protection Bylaw

On April 25, 2024, Bill 16 received Royal Assent which introduced changes to the *Local Government Act* and *Community Charter* that provide new authority for municipalities to adopt tenant protection bylaws. It is expected that more information will be shared from the Province this fall regarding next steps and staff will bring forward a report to Council at a future date to review the merits of pursuing development of a Tenant Protection Bylaw. As part of that review, staff will consider Council’s motion to expand TAP

eligibility to include secondary rental units (not being consolidated with a purpose-built rental building).

4.0 COMMUNICATION AND COMMUNITY ENGAGEMENT

Community engagement during the first two-year review in summer 2022 included a tenant survey, and focus groups with housing advocates, developers, and Tenant Relocation Coordinators. For this review formal community engagement was not conducted, however, staff have considered feedback from tenants, applicants, Tenant Relocation Coordinators, City staff, the general public, and Council over the past two years, which have resulted in the recommendations for minor additional wording and clarification of established implementation practices. A communications plan has been developed to inform relevant parties including eligible tenants, developers, Tenant Relocation Coordinators and internal staff of the points of clarification to the policy through updates to the website, letters and presentations.

5.0 FINANCIAL CONSIDERATIONS

There are no City financial considerations with respect to this proposal.

Respectfully submitted,
E.W. Kozak, General Manager Planning and Development

ATTACHMENTS

- Attachment 1 – 2024 TAP Review – Table of Proposed Additions of Clarifying Language
- Attachment 2 – Edited Tenant Assistance Policy

REPORT CONTRIBUTORS

This report was prepared by Claire Shepansky, Planner 1, and reviewed by Carla Schuk, Planner 3, Sara Gray, Staff Solicitor, Johannes Schumann, Director Community Planning, and Lee-Ann Garnett, Deputy General Manager Planning and Development.